

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Docket No. _____

JACOB CLAYTON,)
)
Plaintiff)
)
v.)
)
MAINE MEDIA COLLEGE,)
)
Defendant.)

COMPLAINT

Plaintiff Jacob Clayton complains against Defendant Maine Media College as follows:

1. Plaintiff Jacob Clayton (“Clayton”) is a resident of Northampton, Hampshire County, Commonwealth of Massachusetts.
2. Defendant Maine Media College (“MMC”) is an educational institution located in Rockport, Knox County, State of Maine.
3. MMC is a recipient of federal financial assistance for purposes of 20 U.S.C. § 1681(a).
4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 20 U.S.C. § 1681(a).
5. Plaintiff has exhausted his administrative remedies pursuant to 5 Me. Rev. Stat.. § 4622(1).

FACTS COMMON TO ALL COUNTS

6. In August 2020, Clayton enrolled in MMC's Professional Certificate in Visual Storytelling ("PCVS") program. Due to pandemic restrictions, MMC conducted the PCVS program virtually using remote instruction over the internet.

7. Clayton had recently completed several very successful semesters studying a diverse curriculum of art and photography at a community college and completed a portfolio development workshop through the highly regarded Griffin Museum of Photography in Massachusetts.

8. Clayton is a transgender male and identifies as queer. He came out at MMC approximately one month into the PCVS program.

9. He immediately experienced microaggressions from the faculty and staff at MMC, which included manner of stance, stares, inflections of voice, lines of questioning, avoidance, changes in pattern, contradictions, and reversal or denial of promises and expectations.

10. On October 13, 2020, Clayton met privately for the first time with MMC's Provost, Elizabeth Greenberg, who was his instructor for a course known as Projects I. He showed her his photographic works that were self-portraits of a transgender man and explained how he had been reluctant to come out at MMC.

11. On October 16, 2020, Clayton made a research inquiry to faculty member Brenton Hamilton, his instructor for a course called 19th Century History of Photography. When discussing use of the municipal library in Rockport, Hamilton

warned that the local library may not be helpful to “someone like [Clayton]” because “it’ll be new territory” for the library staff.

12. On October 23, 2020, Clayton submitted his mid-term essay for 19th Century History to Hamilton, who responded, “Thank you! I’ll get back to you shortly.” Clayton never heard back from Hamilton again concerning the essay.

13. On November 9, 2020, Clayton met with Greenberg about his desire to teach and do artist residencies, and they discussed MMC’s Master of Fine Arts (“MFA”) program, which was directed by Greenberg’s husband.

14. On November 11, 2020, Clayton submitted his final project to Hamilton for the 19th Century History of Photography class, which was entitled *The Male Gaze, Early Portraits of Female to Male Gender Expression*. Hamilton never acknowledged, commented on, or graded the project.

15. By the end of the first trimester, Clayton was conflicted and disappointed. Although MMC advertised itself as a safe, diverse, open-minded, and welcoming environment, he had experienced the opposite. His treatment by MMC faculty and staff left him feeling like a foreign object that was not welcome. MMC had no student services office, no academic advising office, no counseling office, and no LGBTQ+ office, so there was nowhere for him to turn for support.

16. On December 16, 2020, Clayton spoke with Howard Greenberg, the Director of MMC’s MFA program. They discussed the possibility of Clayton entering the MFA program without a BA degree. The Director explained that only a certain percentage of students could be admitted to the MFA program without a

BA, so he likely would have to wait his turn for admission. He also suggested, however, that Clayton relocate to Maine to become “part of the family” at MMC and take classes that would help with or count towards a future MFA. Despite Director Greenberg’s promise of a follow-up conversation with Clayton on this topic, it never occurred.

17. MMC’s second trimester began on January 5, 2021. Hamilton was now teaching Clayton a course called Historic Photographic Techniques. It became apparent to Clayton that Hamilton was having frequent conversations with two of his classmates and providing them with preferential treatment concerning their course materials, artistic techniques, and the like. Hamilton had no such conversations with Clayton.

18. On March 2, 2021, Clayton completed his project for the Historic Photographic Techniques class. He entitled it *The Vitruvian Tran*, based on Leonardo da Vinci’s well-known *Vitruvian Man*. Hamilton referred to the project condescendingly, using the incorrect title.

19. On February 27, 2021, MMC released a promotional video featuring the work of Clayton’s two classmates who were favored by Hamilton.

20. On March 8, 2021, two MMC administrators attended the end-of-trimester student showcase. One sent a complimentary email to Clayton, which she closed: “Can hardly wait to be together with you in Maine this summer. XOXO.” Clayton interpreted the message as sexually harassing conduct by an MMC

administrator, but there was no effective channel for his use in filing a complaint about such conduct at MMC.

21. On March 11, 2021, MMC uploaded a classmate's film to its online account and promoted the film through its online platforms, which included a marketing blitz showcasing this classmate's work. Clayton never received an opportunity for such publicity and exposure through MMC's available multimedia channels.

22. MMC's third trimester began March 22, 2021. Hamilton was now teaching Clayton a class known as Projects III, while Provost Greenberg was teaching a class in Professional Development. The classmate who had been featured in MMC's marketing blitz announced that his culminating project would be the study of a transgender prostitute. MMC's faculty and staff immediately praised this announcement, which deeply impacted Clayton as it exploited and dehumanized his identity and experience as a transgender individual.

23. Clayton became physically ill from the stress of MMC's discriminatory environment in late March 2021. Nevertheless, he decided to try completing the third trimester of the PCVS program to attain certification.

24. On March 30, 2021, the official magazine of the State of North Carolina published one of Clayton's photographs. He alerted MMC of his success. MMC, however, did nothing to publicize or showcase Clayton's success as it had for his non-trans classmates. MMC never followed, liked, commented on, or shared any of Clayton's posts concerning his art. When Clayton's film class project was

later accepted and shown at the San Francisco Transgender Film Festival in the fall of 2021, MMC remained completely silent and did no marketing or promotion with regard to Clayton's artistic success. Clayton's classmates enjoyed a different experience, with MMC frequently liking and sharing their work on its social media platforms.

25. Early in the third trimester, Clayton began receiving upsetting and sexual private Zoom messages from Rob Shulz, a straight, white, male teaching assistant at MMC.

26. By April 15, 2021, Clayton had missed many classes due to stress-related illness and was falling behind. He communicated to Provost Greenberg that he no longer could participate in the Projects class with Hamilton and complained about the clear favoritism shown to his non-trans classmates. Greenberg presented herself as an ally, offering to assist Clayton with one-on-one independent study work on his final projects and assignments so he could complete the program's requirements.

27. On April 22, 2021, Clayton complained to the Provost about MMC's posting of his classmate's recent video on its online accounts. At her direction, on May 3, 2021, Clayton emailed a formal letter of student feedback outlining the animus and differential treatment he had been receiving at MMC. He wrote: "And in this third trimester, as we delve more seriously into professional development, I've gained a greater understanding of how fundamental it is for me to be able to consider Maine Media among my top-tier network of allies and supporters. . . .

I believe there is another huge and timely missed opportunity for Maine Media. My work couldn't be more contemporary as we are living in a moment of unprecedented and disastrous legislative assault against transgender people all across America. I find myself caught up and spun around wondering what message the institution is trying to send to me and others. These inequities don't align with any of the school's promises of community and support. But they do contribute to a climate that has negatively affected my work and experience here from the beginning." Although the Provost promised to submit Clayton's written complaint and feedback, MMC never responded to it in any manner.

28. In early May 2021, MMC began planning a showcase to feature the work of the PCVS students, which Clayton later learned was in response to the complaint he had submitted. In the end, however, MMC never published a PCVS student showcase or addressed the issues of discrimination Clayton had raised.

29. Although MMC promised the PCVS students a free summer 2021 workshop to make up for missing curriculum due to all instruction occurring online during the pandemic, the school never made good on this offer.

30. On May 19, 2021, Hamilton dedicated most of the 20th Century History class to photos of naked boys and men. Rob Shulz, the teaching assistant, chatted privately with Clayton over Zoom, asking if he has a fake penis and inquiring about surgeries he may have had. Clayton considered filing a complaint, but realized there was no effective channel for this at MMC.

31. Although Clayton continued to experience stress-related illness during May 2021, Provost Greenberg encouraged him to complete the program through independent study, writing: “Finishing the program is the big scary step on the way to further success.” Clayton was able to complete his course requirements for the PCVS program.

32. On June 2, 2021, Provost Greenberg emailed the PCVS students requesting submission of final student pieces to be showcased by MMC on its website. After Clayton submitted his images for the showcase, MMC failed to upload them for the showcase.

33. MMC designed the PCVS program for professional development and career advancement. For this reason, the benefits of the PCVS program continue well after the graduation date of a PCVS student.

34. On July 6, 2021, for instance, MMC shared a video on social media for the PCVS open house that featured the work of Clayton’s PCVS classmates. Although Provost Greenberg promised to continue working with Clayton on professional advancement and his goal of pursuing additional advanced educational opportunities, she made many excuses for her failure to keep this promise.

35. Clayton became despondent as a result of the Provost’s failure and fearful due to the discrimination he was experiencing. He removed transgender references from his website and took down most of his artwork. He stopped taking photographs and lost interest in art.

36. Clayton remained in contact with MMC through Provost Greenberg for purposes of benefitting from additional services and professional connections. He also pursued resolution of his complaint concerning the discrimination he had experienced since matriculating at MMC. The further discriminatory acts suffered by Clayton after July 17, 2021, were part of an ongoing series of discriminatory acts by MMC officials and faculty members sufficient to anchor the earlier claims of discrimination for limitations purposes. *See MacDonald v. Brewer Sch. Dep't*, 651 F. Supp. 3d 243, 256-257 (D. Me. 2023).

37. After a falling out with the Provost over her trail of broken promises, Clayton left a voicemail message for MMC's President, Michael Mansfield, on December 15, 2021, and requested a meeting. He also sent the President an e-mail message to follow-up, explaining: "I need to speak with you regarding serious concerns about conduct of Maine Media faculty, staff, and administration."

38. On December 17, 2021, President Mansfield emailed Clayton to arrange a call, which ultimately was scheduled for January 6, 2022. The President's email message deemed the matter "urgent and serious" and "important."

39. Clayton responded by emailing President Mansfield a 6-page formal complaint of discrimination on January 3, 2022. The President responded, saying "Thank you for your letter here and for describing your experience. I'm grateful to have some time with this prior to our call later this week."

40. On January 6, 2022, Clayton met with President Mansfield and MMC's Director of Programs, Devin Fletcher.

41. President Mansfield indicated that he was treating Clayton's complaint as a formal complaint subject to MMC's grievance process.

42. On January 14, 2022, President Mansfield emailed Clayton: "I did not want to let a week go by without acknowledging our conversation. As I mentioned, you raise several concerns that need to be addressed both individually and on the whole. We are doing just that and are considering all of this in detail. Thank you for your patience in advance of our next discussion. I will write more as things progress."

43. Although Clayton fully expected to hear back from the President with respect to his complaint and MMC's grievance process, President Mansfield ceased all communication with Clayton.

44. On January 28, 2022, Clayton contacted Carol Anderson, the vice president of the New England Commission on Higher Education, to ask how long he should wait to receive a response to his complaint. Anderson advised him to give MMC a "reasonable amount of time" to reply.

45. Having heard nothing by the end of February 2022, Clayton sought to retain counsel. Ultimately, he filed a complaint with the Maine Human Rights Commission claiming discrimination in education on the basis of sex and gender identity on May 13, 2022.

COUNT ONE
(Violation of Title IX, 20 U.S.C. §1681(a))

46. Plaintiff repeats the allegations contained in paragraphs 1 through 45.

47. By virtue of the foregoing, Defendant MMC has violated Clayton's rights under Title IX of the Education Amendments of 1972, which prohibits discrimination in education on the basis of sex and gender identity.

48. As a proximate result of MMC's discriminatory actions, Clayton has suffered physical, emotional, and financial damages.

COUNT TWO
(Violation of Maine Human Rights Act)

49. Plaintiff repeats the allegations contained in paragraphs 1 through 45.

50. By virtue of the foregoing, Defendant MMC has violated Clayton's rights under the Maine Human Rights Act, which also prohibits discrimination in education on the basis of sex and gender identity.

51. As a proximate result of MMC's discriminatory actions, Clayton has suffered physical, emotional, and financial damages.

WHEREFORE, Plaintiff Jacob Clayton respectfully requests that the Court enter judgment in his favor against Defendant Maine Media College and award him such damages and equitable relief as allowed by federal and state law, plus his costs and reasonable attorney's fees, and such further relief as the Court may deem just and proper.

Dated: June 27, 2024.

Respectfully submitted,

/s/ Richard L. O'Meara

Richard L. O'Meara

Counsel for Plaintiff Jacob Clayton

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